

REMARKS/ARGUMENTS

Various claims are being amended as shown above. No new matter is being added by the amendment to the claims.

In the office action, claims 9 and 10 were objected to because of certain informalities. In response to the objection to the claims, claims 9 and 10 are being amended as indicated above in order to add proper antecedent basis for terms in the claims. For the above reasons, Applicants request reconsideration and withdrawal of the objection to claims 9 and 10.

In the office action, claims 1-5 and 7-16 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Borella, et al. (US 6,643,259). Applicants respectfully traverse the rejection.

Borella is directed to a method for data transfer over a network, where a congestion window is used and adjusted. The congestion window is the maximum number of outstanding bytes allowed in the data network 10 (Borella, column 8, line 40-41). The congestion window is increased for every acknowledgement (ACK) packet that is received by the transmitting network device from the destination network device. Therefore, Borella discloses the step of increasing the congestion window in response to an ACK packet. Borella does not disclose transmitting a subsequent message from a first node upon receipt of a reply from a second node, as substantially recited in claim 1.

Borella also discloses the step of retransmitting a packet if the transmitting device does not receive an ACK packet for the packet within a time $RTT+4A$. Borella does

not disclose transmitting a subsequent message from a first node to a second node based upon a comparison of the elapsed time of transmission of a prior message with an elapsed time threshold, as substantially recited in claim 1.

Accordingly, claim 1 is patentable over Borella.

Independent claims 7 and 9 are also being amended to recite the similar features above that are not disclosed and are not suggested by Borella. Accordingly, claims 7 and 9 are each patentable over Borella.

Claims 2-5, 8, and 10-16 depend from one of the claims 1, 7, and 9, and are each patentable over Borella for at least the same reasons that claims 1, 7 and 9 are patentable over Borella. Furthermore, each of the claims 2-5, 8, and 10-16 distinguishes over Borella by reciting additional features in combination with the features that are recited in their respective base claim. Accordingly, claims 2-5, 8, and 10-16 are each patentable over Borella.

For the above reasons, Applicants request reconsideration and withdrawal of the rejection under 35 U.S.C. §102.

New claims 17-21 are being added, and each of the claims 17-21 recites features that are not disclosed and are not suggested by Borella. Accordingly, claims 17-21 are each patentable over Borella.

Applicant respectfully requests allowance of all pending claims.

If the undersigned attorney has overlooked a teaching in the cited reference that is relevant to the allowability

of the claims, the Examiner is respectfully requested to specifically point out where such teachings may be found.

CONTACT INFORMATION

If the Examiner has any questions or needs any additional information, the Examiner is invited to telephone the undersigned attorney at (805) 681-5078.

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Respectfully submitted,
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